(107)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. &
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

Writ Petition No.1454 of 2004

Petitioners
Respondents

1. Union of India, Through its Secretary, Ministry of Home Affairs, New Delhi
2. Director General, Central Industrial Security Force (Ministry of Home Affairs) 13, CGO Complex, Lodhi Road, New Delhi – 110003
3. The Commandant, Central Industrial Security Force, 3rd Reserve Battalion, Bhilai Post : Utai, Distt : Durg (CG)
4. The Principal, Recruit Training Centre, Central Industrial Security Force, Bhilai Distt : Durg (CG)

Versus

Respondents
Applicants

1. Dr Madan Mohan Singh, S/o Late Raja Singh aged about 35 years Quarter No.9-C, Street No.2, Sector No.2, Bhilai, Durg MP at present Working as Medical Officer under Commandant CISF, 3rd Reserve Battalion, Utai, Durg
2. Dr Smt Durga B Rajnala aged about 33 years, Qr No.6-A, Street No.6, Sector – 10 Bhilai Distt.Durg, MP Working as Medical Officer, Under Principal Recruit Training Centre, CISF, Bhilai, Durg (CG)

(Writ Petition under Article 226/227 of Constitution of India)

Present : Shri SK Beriwal, Standing counsel for Union of India / petitioners.
Shri MD Dhote, counsel for respondent No.1
Shri Satish Gupta, Deputy Government Advocat for respondent No.2.

(109)

ORAL ORDER

(Passed on 26th July, 2007)

The following oral order of the Court was passed **Hon'ble Jagdish Bhalla, Ag. C. J.**

This writ petition is directed against the judgment and order dated 10-04-2002 passed by the Central Administrative Tribunal (hereinafter referred to as "Tribunal"), Jabalpur, wherein a direction has been issued to the petitioners to ensure consideration of the claimants/respondents' case for regularization after consultation with the Union Public Service Commission.

Learned counsel for opposite party No.1 informs that opposite party No.1 namely, Dr. Madan Mohan Singh has already resigned from the post in question and the counsel for the petitioners has confirmed the same. Accordingly, it has been submitted on behalf of the petitioners that now this petition is limited only for consideration of regularization of opposite party No.2.

It has been contended on behalf of the petitioners that after due advertisement for appointment on ad-hoc basis under statutory scheme, the respondents/claimants were appointed as such basis in accordance with the rules. The respondents continued to work initially till 25-06-1998 and thereafter on the strength of interim order passed by Central Administrative Tribunal on 26-06-1998, wherein it was provided that if new faces are inducted, the services of the applicants shall not be terminated except if regular appointments are made. After hearing the parties, the learned Tribunal decided the original application of the applicants and opined that it would be fair and reasonable to direct the respondents to refer the cases of the applicants to Union Public Service

Commission for their regularization in accordance with the rules. In the circumstances, the learned Tribunal directed the petitioners to consider the case of regularization of the claimants in accordance with law. We find that due care was taken by the department while appointing the opposite party No.2 / claimant on ad-hoc basis by following the statutory scheme. The aforesaid direction was issued by the Tribunal in the background of the facts that since the applicant had worked for a long period and had requisite qualifications and even while being appointed on ad-hoc basis was selected by a Selection Committee. Therefore, the services of the applicant could not have been terminated in the exception carved out in the case of Secretary, State of Karnataka Vs. Umadevi (2006)4 SCC-1.

In (2007) 5 SCC 326 - Kendriya Vidyalaya Sangathan and others Vs. L.V. Subramanyeswara and another, the Apex Court has dealt in detail the various situations with regard to the rights of ad-hoc employees. The law laid down in the said judgment protects the interest of the applicant / respondent No.2.

In the light of the aforesaid judgment, we find that the interference shown by the Tribunal cannot be interfered and liable to be upheld. Accordingly, no interference is warranted and the writ petition is dismissed.

Sd/-
Acting Chief Justice

Sd/-
Satish K. Agnihotri
Judge

raju/s